## BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JUAN CARLOS CHAVEZ Claimant	<b>)</b>
VS.	) ) ) Docket No. 210,192
A & K RAILROAD MATERIALS, INC. Respondent	) DOCKET NO. 210, 192
AND	
LEGION INSURANCE COMPANY Insurance Carrier	

# ORDER

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge Alvin E. Witwer on June 7, 1996. The Order granted claimant's request for medical treatment.

### ISSUES

The only issue on appeal is whether claimant suffered accidental injury arising out of and in the course of his employment.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the briefs submitted by the parties, the Appeals Board concludes claimant did suffer a compensable injury and the Order by the Administrative Law Judge should be affirmed. The decision is supported by claimant's testimony that he injured his foot when the truck in which he was riding struck a stack of railroad ties. Claimant believes that at the time of the impact he shoved his foot down on the floorboard of truck even though he does not specifically recall doing so. The record also includes a medical report which rules out an earlier injury as a cause of claimant's foot complaints.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Alvin E. Witwer dated June 7, 1996 should be, and the same is hereby, affirmed.

### IT IS SO ORDERED.

Dated this	day of August	, 1996.
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# BOARD MEMBER

c: Robert W. Harris, Kansas City, KS Lance P. Stelling, Kansas City, MO Alvin E. Witwer, Administrative Law Judge Philip S. Harness, Director